

**Minutes of the**  
**VIRGINIA SOIL AND WATER CONSERVATION BOARD**  
**June 14, 2001**  
**Natural Resources Conservation Service**  
**Richmond, Virginia**

**Virginia Soil and Water Conservation Board Members Present**

Charles E. Horn, Chairman	Leon E. App (for David G. Brickley)
A. Dewey Bond	Herbert L. Dunford
M. Denise Doetzer, NRCS	Dr. Conrad M. Gilliam
W.P. Johnson	Lorenza W. Lyons

**Virginia Soil and Water Conservation Board Member Not Present**

David Barrett	J. Carlton Courter, III
Robert M. Hall	David L. Moyer
Robert Q. Cannell	

**Staff Present**

William G. Browning	Michael R. Fletcher
Jack E. Frye	Lawrence J. Gavan
Jonathan T. Phillippe	Stuart D. Wilson

**Others**

Chad Crawford, Fairfax County DPWES  
Daphne Jamison, VASWCD  
Robert Kennedy, Fox Heritage Homeowner's Association  
Chris Koerner, Fox Heritage Homeowner's Association  
Harban S. Matharoo, Fairfax County DPWES  
Bob Miller, DIT  
Elizabeth D. Teare, Fairfax County Attorney's Office

**Call to Order**

Chairman Horn called the meeting to order at 9:15 a.m. and declared a quorum present.

**Minutes of the May 17, 2001 Meeting**

Chairman Horn noted that in continuation of a policy begun at the last meeting, motions before the Board will be viewed on screen for final editing and revision before adoption or rejection.

**MOTION:** Mr. Johnson moved that the minutes of the May 17, 2001 meeting be approved as submitted.

**SECOND:** Mr. Dunford

**DISCUSSION:** None

**APPROVED:** Unanimously

**Update on Implementation of Responsible Land Disturber Certification Program**

Mr. Gavan gave an overview of the Implementation of Responsible Land Disturber Certification Program.

He noted that DCR must have the program ready by July 1, when the law comes into effect.

Participants will be able to take the exam online. If 17 out of 25 questions from a random question database are answered correctly, the applicant will receive their certification immediately. Applicants who correctly answer 13 questions will receive a free re-test.

The questions are randomly sorted from a database of 1,400 questions.

Eventually, DCR hopes to have the program available in a variety of languages across the state.

Mr. Gavan introduced Bob Miller of the Department of Information Technology. Mr. Miller is working directly on the building of the software package.

Mr. Miller gave a brief demonstration of the web site package.

Mr. Dunford asked about the participant cost.

Mr. Gavan stated that the cost is \$75.00 for a three-year certificate.

Mr. App asked about those persons being “grandfathered” into the program and whether they were required to pay.

Mr. Gavan said that those design professionals and architects already certified are not required to register. Their own professional boards regulate them.

Mr. App asked how the program worked with those persons from the Department of Transportation who are already certified.

Mr. Gavan explained that about 5,000 people who obtained certification through that program will be grandfathered in as well.

### **Lake Martin Update**

Chairman Horn called upon Mr. Wilson to provide an update on Lake Martin.

Mr. Wilson noted that the Lake Martin issue was not new to the Board, but that the Board had been discussing this item since December of 1999.

Mr. Wilson noted that it had been only four weeks since the last meeting and update. He gave an overview of the Lake Martin issue to date.

Mr. Wilson noted that in May 1999 the Airston development (about 90% of settlement) began construction. From 1997-1999 there were numerous complaints to the county. During this time, three other developments began. Involvement of DCR staff at this time was minimal.

He noted that in 1998 the county and developers met with homeowners to discuss a sediment damage study that was later completed in 1999. That study estimated a fairly low quantity of sediment deposit in the lake.

DCR staff became more involved during the fall of 1999. The issue was first brought to the attention of the Soil and Water Conservation Board in December of 1999.

Mr. Wilson noted that a recent Freedom of Information Act request had allowed him to once again review the chronology of events.

In March of 2000 the county agreed to do another sedimentation study. The new study identified about 6,100 cubic yards of sediment, about a tenfold increase from the initial study.

In April of 2000 the county sent letters to the developers directing them to take responsibility for the sediment.

In July of 2000 the EPA became involved.

On July 17, 2000, with DCR staff and the Board aware that the county was not getting a desired response from the developers, the Board requested the county to develop a binding agreement with developers for the removal of sediment from the lake, and if necessary to take legal action.

The county filed suit against the developers in August of 2000.

The county continued to develop a restoration plan.

**Virginia Soil and Water Conservation Board**  
**Minutes of June 14, 2001**  
**DRAFT as of January 27, 2010**  
**Page 4 of 14**

The court cases are now scheduled for August and November of this year.

In April of 2001 the EPA filed an administrative order against the developer based on prior requests for information. At this time the EPA is awaiting the resolution of the court case.

Mr. Bond asked if the county asked for the state to join in the lawsuit, and if so, why did the state not join the lawsuit.

Mr. Wilson noted that the county did ask the state to join the suit, but that the county has full authority and the Attorney General's Office did not feel it necessary for the state to join the suit.

Mr. App noted that guidance from the Attorney General's office had suggested that this was not an appropriate time for the state to become involved in a lawsuit that might subject the Department and the Board to restrictions imposed by the suit.

Chairman Horn invited representatives from the county and the homeowners' association to offer comments.

Mr. Crawford, Fairfax County representative, addressed the county's actions regarding the Lake Martin project. He noted that some progress has been made regarding the court cases. The court decided that it was better to separate the cases rather than try them together. Fairfax County representatives have meet with representatives of the Airston corporation and there is some discussion of a settlement. He said that the county acknowledges the fact that the citizens have a reason to be upset. He said the county focus is to move forward to formulate a plan together with partners in the community.

Mr. Crawford noted that the design development is proceeding as follows:

1. Lake Dredging – comments were received from the citizen groups on May 23, 2001. Comments are being consolidated and costs estimated.
2. Pond Retrofits – the county is meeting with citizens to gain appropriate access.
3. Stream Repair – the county is working on plan development, land rights and appropriate permits.

Mr. Crawford noted that the county will continue to communicate with EPA regarding their order and expectations.

Chairman Horn called on Mr. Koerner to present comments from the homeowners.

**Virginia Soil and Water Conservation Board**  
**Minutes of June 14, 2001**  
**DRAFT as of January 27, 2010**  
**Page 5 of 14**

Mr. Koerner noted that he was attending his tenth meeting with the Board and that he and other homeowner's have been dealing with the situation for over four years. He noted that citizens are concerned that the county has not asked for homeowners information in preparation of the lawsuit. He also noted that a sister community is experiencing some of the same problems and said that he would like to see legislation to prevent future situations.

Mr. Bond asked if DCR was working on proposed legislation to grant the agency more authority.

Mr. Frye noted that the agency was not currently preparing legislation. He said that the General Assembly is undertaking a study that may address the issue.

Mr. Bond said that it appears that the Board and the agency have no authority to correct the situation.

Mr. Wilson noted that he didn't believe the Attorney General was saying the state had no authority, but that the county is currently exerting their authority. He said as long as the county is taking action that the state should defer to the county.

**MOTION:** Mr. App moved that the Virginia Soil and Water Conservation Board receives the progress report from Fairfax County outlining current and proposed actions to bring resolution to the Lake Martin watershed erosion and sediment control problems under the enforcement authority of the Fairfax County Erosion and Sediment Control Program. The Board notes the efforts by Fairfax County to bring resolution to this issue and requests the County to continue its efforts to expedite resolution to facilitate remediation of the Lake Martin watershed.

And that, the Virginia Soil and Water Conservation Board directs Fairfax County to continue to provide updates to the Board relative to the progress in completing the final design and construction specification documents, the proposed plans and schedule for commencement of restoration actions and the actual progress in restoration. The County should insure that affected homeowners are provided input into the process of determining the final remediation plans. These updates shall continue until restoration actions have been completed.

**SECOND:** Mr. Dunford

**MOTION TO AMEND:** Mr. Bond moved that the motion be amended to omit the sentence, “The Board notes the efforts by Fairfax County to bring resolution to this issue and requests the County to continue it’s efforts to expedite resolution to facilitate remediation of the Lake Martin watershed.” and replace it with, “The Board requests the County to continue it’s efforts to expedite resolution to facilitate remediation of the Lake Martin watershed.”

**SECOND:** Mr. Dunford

**AMENDMENT APPROVED:** Unanimously

**FINAL MOTION:** The Virginia Soil and Water Board receives the progress report from Fairfax County outlining current and proposed actions to bring resolution to the Lake Martin watershed erosion and sediment control problems under the enforcement authority of the Fairfax County Erosion and Sediment Control Program. The Board requests the County to continue its efforts to expedite resolution to facilitate remediation of the Lake Martin watershed.

And that, the Virginia Soil and Water Conservation Board directs Fairfax County to continue to provide updates to the Board relative to the progress in completing the final design and construction specification documents, the proposed plans and schedule for commencement of restoration actions and the actual progress in restoration. The County should insure that affected homeowners are provided input into the process of determining the final remediation plans. These updates shall continue until restoration actions have been completed.

**DISCUSSION:** None

**APPROVED:** Unanimously

**Erosion and Sediment Control Local Program Reviews.**

Mr. Wilson noted that the agency had developed a new program for the review of local urban erosion and sediment control programs. The agency is reviewing four areas: Administration, Plan Review, Inspection, and Enforcement.

Reviews have been completed for Bedford, Greensville, Goochland and Frederick.

To date, all counties that have been reviewed need some measure of improvement. Counties have been asked to submit corrective plans. Mr. Wilson noted that the intent is not to be punitive but to help bring programs into full compliance.

Mr. Dunford asked about the role of the local Soil and Water Conservation District.

Mr. Wilson noted that some localities have agreements with the SWCD to do the plan review.

**Dam Safety Certificates and Permits**

Mr. Phillippe presented the following list of Dam Safety Certificates and Permits:

INV. NO.	NAME	CITY/COUNTY
<u>Dam Safety Alteration Permit</u>		
None		
<u>Dam Safety Construction Permit</u>		
None		
<u>Dam Safety Operations &amp; Maintenance Certificates</u>		
<i>Class I Regular</i>		
None		
<i>Class I Conditional</i>		
None		
<i>Class II Regular</i>		
80017**	C Pond Dam	SUFFOLK
<i>Class II Conditional</i>		
None		
<i>Class III Regular</i>		
03126**	Hutchinson Dam	CAMPBELL
<i>Class III Conditional</i>		
None		

*Out of Compliance*

01931	Simpkins Dam	BEDFORD
06515***	Anderson Dam	FLUVANNA
08915	Robertson Dam	HENRY

\*\*\* Dam will be back in compliance with a Conditional Class III Operational & Maintenance Certificate recommendation for the September Board meeting. The dam is quite remote and no dwellings would be affected by its failure, but remedial maintenance is needed to restore the dam to a good condition and the owner is aware of the steps necessary to achieve that condition.

**MOTION:** Mr. App moved that whereas the Soil and Water Conservation Board's next scheduled meeting is in September and whereas Green Mountain Lake Dam (Virginia Inventory #07915) was granted a Conditional Class II Operation and Maintenance Certificate, and whereas a condition of the certificate is for the owner to present an application for an Alteration Permit based on a suitably engineered design, be it resolved that in the interest of timely construction prior to the onset of the intense portion of the hurricane season, that the Board authorizes issuance of such a permit upon the owner satisfying the Territory Engineer and the Director (or Acting Director) of Dam Safety that the engineered design satisfies the intent of the Dam Safety Regulations. Such an Alteration Permit, if issued, will be formally submitted to the Board at its next scheduled meeting for its concurrence.

**SECOND:** Dr. Gilliam

**APPROVED:** Unanimously.

**MOTION:** Mr. App moved that whereas the Class II and Class III Regular Certificates presented for approval are being considered at a Soil and Water Conservation Board meeting occurring at a date which is irregular from the normal Board schedule, be it resolved that upon approval of these certificates, the certificates will be valid for approximately six years and will be assigned an expiration date of May 31, 2007, to coincide with the regularly scheduled May Board meeting in that year.

**SECOND:** Mr. Dunford

**APPROVED:** Unanimously

**District Director Resignations and Appointments**

Mr. Browning presented the following recommendations:

*Three Rivers*

Recommendation of Eugene Longest, King & Queen County, to fill unexpired elected term of J. Lawrence Simpkins (term of office to begin on or before 7/14/01 – 1/1/02).

**MOTION:** Mr. Bond moved that the recommendation of Eugene Longest, King & Queen County to fill the unexpired term of J. Lawrence Simpkins be approved as submitted.

**SECOND:** Mr. Dunford

**APPROVED:** Unanimously

**VSWCB Operating Procedures Policy / Bylaws**

Mr. App noted that when policy manuals were developed for Board members a subcommittee of the Board met numerous times to consider the policy. Mr. Bond, Mr. Moyer and others were members of the subcommittee.

Mr. Frye noted that the subcommittee addressed Board policies at their meetings and had a policy structure for different type of activities.

Adoption of the Board Bylaws eliminated the need for many separate policies such as the operating procedures, district director positions, affirmative action, and approval of small watershed practices.

Mr. Frye noted that a question had arisen concerning the scheduling of a July meeting. He noted that while the policies prior to the Bylaws outlined a specific meeting schedule that the current bylaws do not specify the months in which the Board must meet.

**Evaluation Criteria for DCR/SWCD FY 2001-2002 Grant Agreement Deliverables**

Mr. Browning noted that at the previous meeting members were provided a draft of the 2001-2002 Grant Agreement Deliverables for consideration at this meeting.

**MOTION:** Mr. App moved that the Board approve the Evaluation Criteria for DCR/SWCD FY 2001-2002 Grant Agreement Deliverables as recommended by DCR staff.

**SECOND:** Dr. Gilliam

**APPROVED:** Unanimously

**Realignment of the Lonesome Pine SWCD. Formation of the Big Sandy SWCD and Application to the Secretary of the Commonwealth**

Mr. Dunford noted that when the application to the Secretary of the Commonwealth for the creation of a new Soil and Water Conservation District is presented, that the Board needs to clearly state that money is an issue of concern.

Dr. Gilliam noted that when the representatives requested the formation of a new district they noted that money was not an issue of concern.

Mr. Browning noted that the Board had previously established a policy on the funding of districts and had therefore already dealt with the monetary issue.

**MOTION:** Mr. Dunford moved that to fulfill requirements of state law (§ 10.1-517 of the *Code of Virginia*), the Virginia Soil and Water Conservation Board direct DCR staff, upon receipt of a favorable response from the U.S. Department of Justice, to assist the district directors appointed by the Board on December 6, 2000 with preparation and submission of the “Application and statement to the Secretary of the Commonwealth” for the realigned Lonesome Pine SWCD and the creation of the Big Sandy SWCD. The statement shall include the Board’s definition of the boundaries of the two districts as follows:

The boundaries of the Big Sandy SWCD are defined by the Board as lands lying within the boundaries of Buchanan County, including the incorporated towns therein.

The boundaries of the Lonesome Pine SWCD are defined by the Board as lands lying within the boundaries of Dickenson and Wise counties, including the incorporated towns therein.

And that further, the Board authorize the Secretary of the Board to endorse the statement on behalf of the Board.

**SECOND:** Mr. Johnson

**VOTE:**

**AYES** Dunford, Horn, Johnson, Lyons, App

**NAYES** Bond, Gilliam

**Agency Reports**

*Natural Resources Conservation Service*

Chairman Horn thanked Ms. Doetzer for hosting the Board meeting.

Ms. Doetzer presented the NCRS Report. Copy Attached as Attachment #1.

*Virginia Department of Forestry*

Not represented.

*Virginia Cooperative Extension Service*

Not represented.

*Virginia Department of Agriculture and Consumer Services*

Not represented.

*Virginia Department of Conservation and Recreation*

Mr. App noted that Mr. Frye would report for DCR. He noted that the majority of staff has now moved back to the Zincke Building.

Mr. Frye reported the following:

**DCR/SWCD Grand Agreements for FY01-02 Operating & Cost-Share Funds:**

Agreements have been sent to every district and now await endorsement by districts to complete the documents. CDCs are beginning to receive their fully signed copy as districts conduct June monthly meetings. Once CDCs receive their copy, an initial 25% of the total operating funds will be processed for disbursement. Those districts returning a signed agreement to their CDC in June will receive funds during July.

**CREP – Conservation Reserve Enhancement Program**

Progress continues as partner agencies work to achieve program goals for this important incentive program. As of April 30, 2001, there are 596 contracts statewide covering 5,258 acres representing the equivalent of 868 miles of restored, 50' wide buffers. The process of data collection and tracking continues to improve as implementation progresses. Recruitment for the month of March 2001 was the best month thus far with 106 new applications in the Southern Rivers portion of the state, and 101 new applications in the Chesapeake Bay basin. As of March 30<sup>th</sup>, 2001 the first fully implemented CREP practices were reported with 16.6 acres of restored buffers representing 1.5 miles of stream bank in the Southern Rivers and 109 acres of restored buffers representing 7.8 miles of stream bank in the Chesapeake Bay basin.

**Building SWCD Capabilities:**

Representatives from the primary conservation partner agencies continue to plan and coordinate training activities aimed at improving capabilities of SWCD staff and others. The partners through the organization of 4 regional Joint Employee Development (JED) teams and one statewide JED coordinating team, are planning and carrying out fundamental training courses that included Effective Presentation and Instruction (EP&I), Conservation Selling Skills and Conservation Orientation for New Employees. Staff of SWCDs directly benefit from these training and development initiatives. A financial management software training program – QuickBooks 2000 – was provided to SWCD staff and directors on June 11, 2001. Ms. Sarah Adams, a Certified Public Accountant (CPA) familiar with SWCDs and their financial management needs served as course instructor. Attendance numbered 23, with 14 SWCDs represented. Evaluations completed by participants provide many helpful recommendations for future events and reflect very favorable ratings for the June 11<sup>th</sup> event.

**DCR/NRCS Engineering Support Services Agreement:**

The one-year agreement between DCR and NRCS for special support and assistance with fulfilling engineering support needs of districts and partner agencies has just drawn to a close. Several strategies were followed which included assessing existing shortfalls with engineering support; assessing training needs of partner agency field staff (initially focused in the Lower Tributaries of the Chesapeake Bay); identifying the job approval authority capabilities of SWCD and NRCS field staff; and delivering a series of training sessions for specific, identified training needs. DCR and NRCS are pleased with the accomplishments of the single year agreement.

**Biosecurity Measures Pertaining to Livestock and Poultry Farms:**

Concerns have escalated over the potential for disease outbreaks on livestock farms. DCR is working with the State Veterinarian (VADACS) to develop appropriate biosecurity procedures for all employees whose job functions place them in contact with farms producing or housing livestock or poultry. The procedures are being developed to avoid transfer of diseases from one farm to another and will be implemented by the agency into the future. DCR considers this a proactive preventive measure to protect the health of livestock and poultry, to protect wildlife diversity and protect the significant agricultural economy in Virginia. DCR intends to share

these procedures with soil and water conservation districts and NRCS and recommend their adoption. The success of the largely voluntary, stewardship-based approach to conservation

hinges upon the provision of on-farm technical assistance. DCR intends to maintain a high level of trust established within the agricultural community.

**Partnership Training on Chesapeake Bay 2000 Agreement Commitments:**

DCR will be working with the partnership to set up one or more training sessions later this year about the specific commitments of the Chesapeake Bay 2000 Agreement signed on June 28, 2000 by Governor Gilmore. The agreement covers a wide variety of topics from living resource protection to community engagement and relies more than ever on local government and citizen involvement.

Mr. Frye distributed the “Statewide Watershed Actions Update.” Copy Attached as Attachment #2.

**Public Comment**

There was no public comment.

**Other Business**

Dr. Gilliam asked about the status of open positions, particularly the Director of the Division of Dam Safety and the Dam Safety Engineer.

Mr. Browning noted that interviews have been completed for the position of Dam Safety Engineer. A recommendation for the Director is being prepared.

Mr. App noted that there have been discussions with DCR’s human resources regarding the position of the Director of the Division of Dam Safety. Further action is expected soon.

Mr. Frye noted that it was difficult to create viable recruitment packages. He said that it was not unusual to have to advertise two or three times for technical positions.

**Next Meeting - September 20, 2001**

Dr. Lyons invited the Board to meet at Virginia State University in September. He said that a tour of the greenhouse work and Randolph Farms could be included.

Mr. Dunford moved that the September 20, 2001 meeting of the Virginia Soil and Water Conservation Board be held at Virginia State University at Randolph Farm on River Road.

**Adjourn**

There being no further business, the meeting was adjourned.

Respectfully submitted,

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Charles E. Horn  
Chairman

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David G. Brickley  
Recording Secretary